

TRANSPORTATION PERMIT EFFICIENCY and ACCOUNTABILITY COMMITTEE

Agenda for the Thirty-Second Meeting

Comfort Inn, Tumwater

Thursday, December 8, 2005

1. Welcome, Introductions and Announcements

Meeting was convened at 9:00 a.m.

Legislators, invited officials, TPEAC members, TPEAC staff and other guests were introduced.

2. Approval of September 27-28, Meeting Summary

The previous meeting summary was approved as written.

3. Office of Regulatory Assistance (ORA)

The new ORA Director, Faith Lumsden, discussed the direction for ORA. She talked about improvements and ideas to simplify changes within and outside the office. Faith discussed the following:

The Executive Order (EO)05-06, establishing the Governor's Regulatory Improvement Program, will soon be ready for final review and issuance. The EO supersedes three prior executive orders and ties together with Plain Talk and GMAP orders. The Order sets forth two main initiatives:

- Online business licensing, taxing, and permitting portal and improvements.
- Improvements at multiple levels to environmental permitting.

The EO builds upon a foundation of management accountability, customer service, adaptive response, and a requirement for value-added process. These principles will apply to all agencies, even those not deeply involved in the early phases of the Business Portal or Environmental Permitting initiatives. Discussion followed.

4. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Safetea Lu)

Sharon Love, FHWA, updated the TPEAC with the new federal Safetea Lu legislation and provided the federal perspective on changes in the new law's environmental requirements. Carol Lee Roalkvam, WSDOT, presented the state perspective and gave an update from a recent American Association of State Highway and Transportation Officials (AASHTO) meeting in Washington, D.C. on the federal rules written in response to the new Safetea Lu legislation. Carol Lee stated there were many challenges and the big focus was on information sharing. Carol Lee also discussed how to better help our projects by planning and consultations.

A handout, SAFETEA-LU Provisions Regarding Environmental Streamlining, was provided.

5. Joint Legislative Audit Review Committee (JLARC)

Keenan Konopaski, JLARC, and Gary Walvatne, Techlaw, presented the results of the recent Business Process Review of Environmental Permitting for Transportation Projects. The scope of the study included:

- Evaluating the regulatory requirements for a set of major projects to clarify the regulatory business process and identify barriers.
- Assessing the applicability of successful streamlining efforts to various environmental requirements for major transportation projects.
- Analyzing recent project histories to identify the root cause(s) of schedule delays attributable to factors in addition to permitting.
- Determining the extent to which the regulatory goals concerning drainage ditches and stormwater runoff have changed over time and identifying the impact of these regulatory changes on the cost and time to completion of major transportation projects.

Gary reviewed the streamlining activities diagram and discussed the process used in the evaluation of WSDOT projects. He also covered the evaluation of Root Causes and Effects of Delays. Gary noted that these represented ten of WSDOT's most complex projects. He mentioned that that partnering agreements kept projects on time and that liaison partnering was a large part of the success. Gary discussed the 10 sample projects. The projects included environmental documentation, time, and type of work. The report can be found on the JLARC website at:

<http://www1.leg.wa.gov/reports/05-14.pdf>.

Senator Swecker asked if Megan White would explore the projects that were not hindered by delays (due to changes, funding or other) to see how those projects ran without any delays. This will help other (future) projects avoid delays.

Joel Gjuka briefed the committee on WSDOT's follow-up to JLARC'S eight management recommendations. WSDOT plans to coordinate project schedule and AD dates by detailing environmental milestones in the Project Delivery Information System and developing a protocol for sharing project management plans with regulatory agencies. Several WSDOT projects are slated to use online JARPA in the coming year and WSDOT intends to continue working with the e-permitting steering committee to improve the system so that it can be used for all projects. WSDOT is developing environmental documentation and permitting performance measures. However, tracking and reporting of the performance measures is contingent on funding and implementation of a modern integrated IT system. WSDOT has completed management recommendation 5: *Formally Request Talent Guidance*. The Army Corps of Engineers recently accepted a limited definition of jurisdictional ditches for the SR 509 project. This definition will be applied on future transportation projects. WSDOT is updating the department's online project risk assessment tool to guide project managers in shelving environmental work on unfunded projects. WSDOT plans to focus streamlining priorities by drafting a joint policy statement and working internally and with the

Office of Regulatory Assistance to establish performance indicators of which projects are using prioritized streamlining approaches.

Scott Boettcher gave an update on how Ecology is following up on JLARC's management recommendations.

Jackie White identified the need to share WSDOT project schedules and AD dates with local government regulatory agencies.

Dalene Sprick, administrator for the Transportation Performance Audit Board (TPAB), discussed their final report authorizing JLARC to conduct a review of the environmental permitting issues related to capital construction projects delivered by WSDOT on TPAB's behalf.

The findings in the report from the consultant said that the primary cause of environmental delays is interruptions in funding. The core solution to this problem lies in funding continuity.

TPAB found that in addition to the funding delays, there is a complex maze of planning and decision-making processes, environmental and permit processes, right of way acquisition processes, design requirements, as well as basic project management and staffing arrangements that can cause project delays.

TPAB had recommendations in funding, storm water, expand programmatic permitting, decrease in regulatory overlap, communications, sharing draft permit provisions for 401 certifications, cost effectiveness, analysis of Section 404 delegation, IT, accounting and paperwork streamlining.

6. Working Lunch/NEPA and Tribal Consultation

Carol Lee Roalkvam, WSDOT, updated TPEAC on the origins of the model National Environmental Policy Act (NEPA) tribal consultation process for federal transportation aid projects. The NEPA tribal consultation process has a special focus on the preservation of cultural, historic, and environmental resources.

WSDOT environmental and tribal liaison staff initiated a statewide effort to meet the budget proviso language. Since April 2005, Megan Beeby and TPEAC tribal liaisons have met with 27 of 29 federally recognized tribes in Washington. The purpose of these meetings is to discuss consultation protocols, identify gaps, and gather suggestions on how to improve consultation. Megan discussed twelve draft recommendations developed from the tribal meetings with TPEAC. These recommendations will be sent to the tribes and other WSDOT staff for review.

The TPEAC tribal liaisons that participated in the consultation meetings provided their perspective on the tribal meetings and recommendations. Tribal members noted that Megan Beeby has done a superior job in bringing WSDOT and the tribes closer together with tribal consultation and communication.

Bryan Flett commented that with the turnover in the tribes, it is important that one office keeps track of information. Some tribes have a biologist on staff and would like WSDOT to use and pay their consultation fees to work on work on projects.

Colleen Jollie visited tribes and agencies this summer to make sure everyone is communicating. She noted it is important to acknowledge all holistic properties with the tribes. Tribes may need resources to help them with holistic property assessments.

Darrell Phare is pleased with the ongoing communication with the tribes. He appreciates the time and effort the liaisons have put into this effort. Passing on artifacts to the next generation is very important.

Scott Boettcher would like the consultation protocols/procedures available online for other agencies to use.

Carol Lee Roalkvam briefed TPEAC on The Tulalip Tribes' effort to create a NEPA tribal consultation process that other tribes may use. WSDOT received the product and has provided comments.

7. Resolution to Continue Permit Streamlining Activities

Senator Swecker presented TPEAC resolution # 23 *For The Purpose of Approving The Continuation of TPEAC Streamlining Activities by The Office of Regulatory Assistance*. Senator Swecker discussed what language to pass on to the Legislature for the sunset of the TPEAC meetings. The committee voted and accepted the proposed resolution that recommends continuation of TPEAC work through the Office of Regulatory Assistance. There will be a letter prepared to go along with the resolution that outlines the thoughts of the committee.

8. Public Comment

There was no public comment.

9. Agenda (Status, Closure, and Next Steps) for the Final TPEAC Meeting on March 22, 2006, and Celebration of Accomplishments

- Discussion on the next (and last) meeting.
- Overview for next meeting.
- Next step: Where do you want this to be in five years?
- Invite directors to lunch to go over process.
- Discuss what we have learned and how it can apply to the future.

10. Adjourn

Meeting adjourned at 2:22 p.m.